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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,169	03/08/2001	Christopher Keith	0505-4012	1150

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BRENDA POMERANCE  
LAW OFFICE OF BRENDA POMERANCE  
260 WEST 52 STREET SUITE 27B  
NEW YORK, NY 10019

EXAMINER

GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

JE

**Office Action Summary**

Application No.

09/802,169

Applicant(s)

KEITH, CHRISTOPHER

Examiner

Clement B Graham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>Page 2: 8/18/2001</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-30 remained pending and claim 31 has been added.

#### ***Claim Rejections - 35 USC § 102***

##### Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-30, are rejected under 35 U.S.C. 102(b) as being anticipated by Trojan et al (Hereinafter U.S Patent No. 5, 297, 032).

As per claim 1, Trojan discloses a method of facilitating trading, comprising: automatically via a computer providing a price (i. e, "bid an ask price" inquiry to a market process having an order file, the market process also having a crowd of trading process registered (i. e, "member dealers" see column 3 lines 50-68) therewith and automatically via a computer requesting that the market process notify its crowd (i. e, "dealers") of a price improvement opportunity.(see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 2, Trojan discloses further comprising trading at a price provided by the Crowd ("i. e, orders "see column 1 lines 15-25).

As per claim 3, Trojan discloses wherein the automatically providing and requesting are performed by a trading process.(see column 2 lines 25-65).

As per claim 4, Trojan discloses a method of providing a crowd price, comprising: automatically via a computer receiving notice at a trading process registered(i. e, "member dealers") as being a crowd (i. e, "dealers") of market process of an opportunity to improve upon a book price, automatically via a computer or other computer determining whether to improve upon the book price, and automatically via a computer or another computer providing the crowd price that improves the book price when the determination is positive.(Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 5, Trojan discloses wherein the determining is in accordance with an order processing methodology.(see column 1 lines 15-25).

As per claim 6, Trojan discloses wherein the order processing methodology is represented in a decision table.(see column 2 lines 25-65 and column 3 lines 50-65 and column 4 lines 5-40).

As per claim 7 Trojan discloses wherein the determining includes requesting an instruction from a user. (see column 2 lines 25-65 and column 3 lines 50-65 and column 4 lines 5-40).

As per claim 8, Trojan discloses further comprising automatically registering as part of a crowd to receive the price improvement opportunity notice. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 9, Trojan discloses wherein the automatically registering occurs with a market process.(Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 10 , Trojan discloses wherein the automatically receiving notice, determining and providing a crowd price are performed by a trading process. (see column 2 lines 25-65 and column 3 lines 50-65 and column 4 lines 5-40).

As per claim 11, Trojan discloses a method of providing a crowd(i. e, "member dealers") price, comprising: automatically via a computer receiving notice at a trading process registered ("i. e, "member dealers") as being the crowd of market process of a proposed pairing price, automatically via a computer or another computer determining whether to improve upon the proposed pairing price, and automatically via a computer or another computer providing a crowd ("i. e, "dealers") price that improves the proposed pairing price when the determination is positive. (Note abstract and see column 2 lines 25-65 and column 3 lines 50-65 and column 4 lines 5-40).

As per claim 12, Trojan discloses wherein the determining is in accordance with an order processing methodology.(see column 1 lines 15-25).

As per claim 13, Trojan discloses wherein the order processing methodology is represented in a decision table.(see column 2 lines 25-65 and column 3 lines 50-65 and column 4 lines 5-40).

As per claim 14, Trojan discloses wherein the determining includes requesting an instruction from a user.(see column 2 lines 25-65).

As per claim 15, Trojan discloses further comprising automatically registering as part of a crowd to receive the proposed pairing price notice.(see column 12 lines 10-60).

As per claim 16, Trojan discloses wherein the automatically registering occurs with a market process. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 17, Trojan discloses wherein the automatically receiving notice, determining and providing a crowd price are performed by a trading process. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 18, Trojan discloses a method of providing price discovery, comprising:  
automatically via a computer notifying a crowd ("i. e, "dealers") of trading process registered ("i. e, "member dealers") with a market process of an opportunity to improve upon a book price, automatically via a computer or another computer receiving a crowd price from the crowd, and automatically via a computer or another computer providing the crowd price as a response when the crowd price is better than the book price. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 19, Trojan discloses wherein the automatically providing occurs in response to a price inquiry according to a published delay time. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 20, Trojan discloses wherein when the crowd price is provided as a response, a pairing must occur. (see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 21, Trojan discloses comprising receiving a price inquiry specifying that the response to the price inquiry should occur after automatically notifying the crowd of the price improvement opportunity. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 22, Trojan discloses wherein the automatically notifying, receiving and providing are performed by a market process. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 23, Trojan discloses wherein the crowd comprises registered trading processes. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 24, Trojan discloses a comprising: automatically via a computer notifying a crowd ("i. e, "dealers") of trading process registered with a market process of a proposed pairing price, automatically via a computer or another computer receiving a crowd ("i. e, "dealers") price from a crowd and automatically via a computer or other computer pairing with the crowd price when the crowd price is better than the proposed pairing price. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 25, Trojan discloses wherein the automatically pairing occurs according to a published delay time. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 26, Trojan discloses wherein the published delay time is less than one second. (see column 2 lines 25-65 and column 3 lines 50-65 ).

As per claim 27, Trojan discloses wherein the published delay time is greater than one second. (see column 2 lines 25-65 and column 3 lines 50-65 ).

As per claim 28, Trojan discloses further comprising determining that a next pairing will be at the proposed pairing price different than a previous pairing price. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 29, Trojan discloses wherein the proposed pairing price is the best price from a file of stored orders. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 30, Trojan discloses wherein the automatically notifying, receiving and pairing are performed by a market process. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

#### **Response to Arguments**

4. Applicant's arguments files on 11/26/04 have been fully considered but they are not persuasive for the following reasons.
5. In response to applicant's arguments regarding Trojan.
6. In response claim 1, Applicant's arguments that reference teach or

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suggest " a crowd being notified of a price improvement opportunity as specifically recited in and providing a crowd price that improves upon a proposed pairing price as specifically recited and providing a crowd price that improves upon a proposed pairing price as specifically recited" these limitations were addressed above as stated Trojan discloses a method of facilitating trading, automatically via a computer providing a price (i. e, "bid an ask price" inquiry to a market process having an order file, the market process also having a crowd of trading process registered (i. e, "member dealers" see column 3 lines 50-68") therewith and automatically via a computer requesting that the market process notify its crowd (i. e, "dealers") of a price improvement opportunity. see column 3 lines 50-65 and column 4 lines 5-40 and providing a crowd price, automatically via a computer receiving notice at a trading process registered(i. e, "member dealers") as being a crowd (i. e, "dealers") of market process of an opportunity to improve upon a book price, automatically via a computer or other computer determining whether to improve upon the book price, and automatically via a computer or another computer providing the crowd price that improves the book price when the determination is positive. Note abstract and see column 3 lines 50-65 and column 4 lines 5-40 and providing a crowd(i. e, "member dealers") price, comprising: automatically via a computer receiving notice at a trading process registered ("i. e, "member dealers") as being the crowd of market process of a proposed pairing price, automatically via a computer or another computer determining whether to improve upon the proposed pairing price, and automatically via a computer or another computer providing a crowd ("i. e, "dealers") price that improves the proposed pairing price when the determination is positive. Note abstract and see column 2 lines 25-65 and column 3 lines 50-65 and column 4 lines 5-40 automatically via a computer notifying a crowd ("i. e, "dealers") of trading process registered ("i. e, "member dealers") with a market process of an opportunity to improve upon a book price, automatically via a computer or another computer receiving a crowd price from the crowd, and automatically via a computer or another computer providing the crowd price as a response when the crowd price is better than the book price. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40) and automatically via a computer

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notifying a crowd ("i. e, "dealers") of trading process registered with a market process of a proposed pairing price, automatically via a computer or another computer receiving a crowd ("i. e, "dealers") price from a crowd and automatically via a computer or other computer pairing with the crowd price when the crowd price is better than the proposed pairing price. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40). It is inherently clear that the claimed limitations were addressed within the Trojan reference.

### Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication from the examiner should be directed to Clement Graham at (703) 305-1874. The examiner can normally be reached on Monday, Tuesday, and Wednesday from 5:30AM. to 6:00PM.

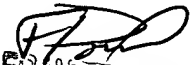
8. If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Sam Hyung can be reached on (703) 305-0505.

The Official Fax Number for TC-3600 is: (703) 305-7687

Clement Graham

Patent Examiner

February 8, 2005

  
CLEMENT GRAHAM  
PATENT EXAMINER  
AU 3628